Freedom of Information Act

(Freedom of Information Act Managerial Training)

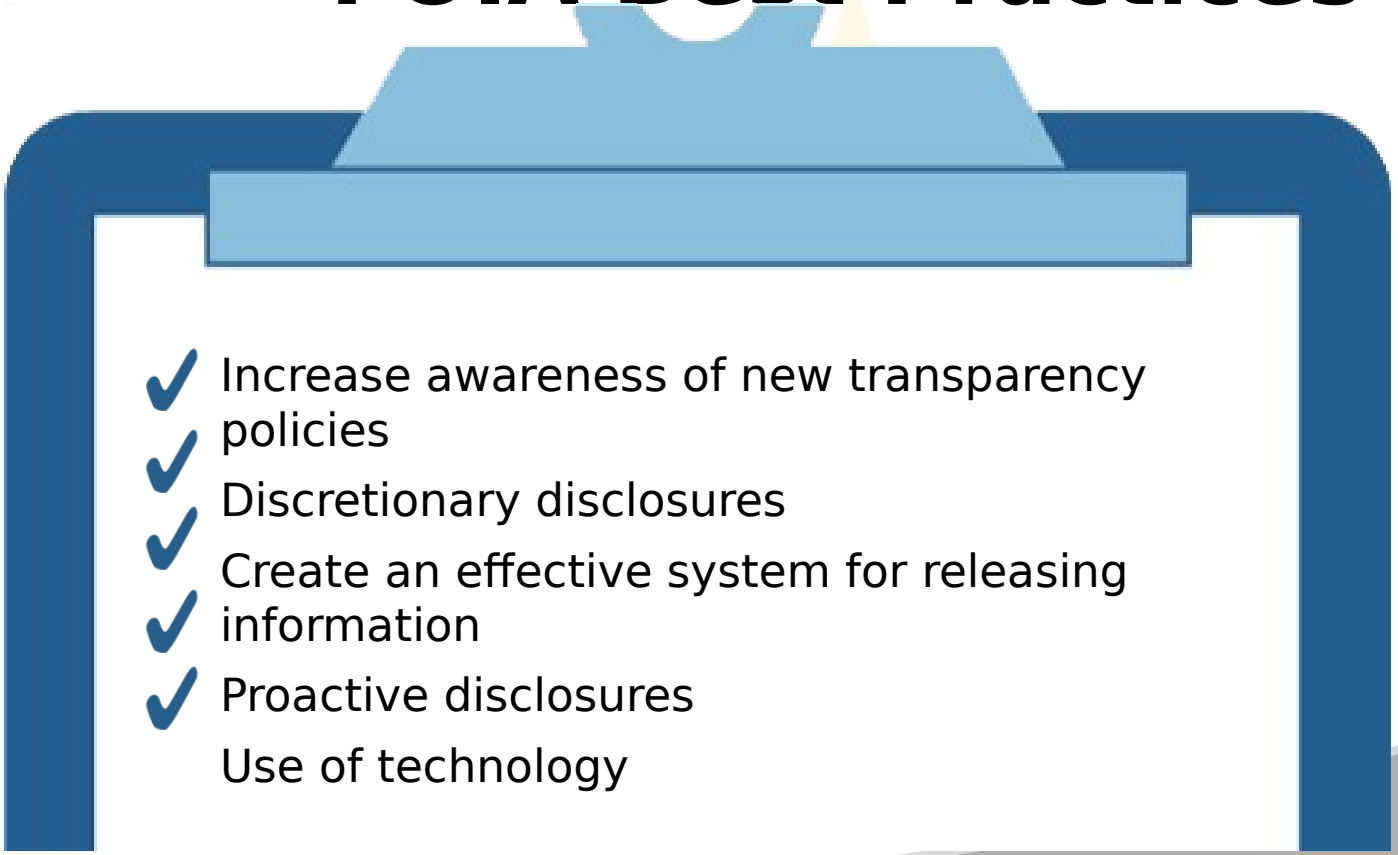
United States Army

Overview

After completing this training session individuals should be familiar with the following:

- FOIA Best Practices
- Reducing Backlogs & Increasing Timeliness
- Reports
- FOIA Public Liaison

FOIA Best Practices



- Increase awareness of new transparency policies
- Discretionary disclosures
- Create an effective system for releasing information
- Proactive disclosures
- Use of technology

FOIA Best Practices

Managers of FOIA programs should increase awareness of new transparency policies by:

- initiating an active and aggressive approach to improving transparency in their commands
- promoting training to FOIA and non-FOIA personnel on FOIA guidelines on transparency
- offering guidance tailored to the type of records they typically process in response to FOIA requests

FOIA Best Practices

Increase discretionary disclosures by:

- implementing a process to consider whether more information can be released as a matter of administrative discretion

Increase releases of information by:

- asking if a document that would typically be withheld in full could be released in part
- asking if a document that would typically be released in part could be released in full

FOIA Best Practices

Creating an Effective System for Releasing Information:

1. Take steps to ensure that command personnel are fully supporting FOIA professionals
2. Ensure FOIA personnel has sufficient authority to be able to carry out statutory duties in response to requests
3. Conduct regular interviews of pending FOIA cases and make resource or staff adjustments as necessary
4. Consider increasing FOIA staff or resources as needed

FOIA Best Practices

Creating an Effective System for Releasing Information:

5. Improve customer service by:
   a. Providing requesters with contact information
   b. Discussing the scope of requests with requesters
   c. Providing interim releases
   d. Limiting “still interested” letters
6. Improve working relationships with non-FOIA personnel to facilitate timely responses from program officials and records managers.
7. Improve search capabilities to achieve greater efficiency

FOIA Best Practices

Increasing Proactive Disclosures:

Army FOIA personnel should take proactive steps to make information publicly available, including routing and systematically posting information online without specific requests from the public.

FOIA Best Practices

Increasing Proactive Disclosures:

1. Every agency should continuously strive to increase the amount of material available on the army's FOIA electronic reading room.
2. All agencies should ensure that they are identifying documents for proactive disclosure and have an on-going process of posting documents of interest to the public
   - Personnel involved should include: FOIA professionals and program office officials who can collectively identify records appropriate for posting

FOIA Best Practices

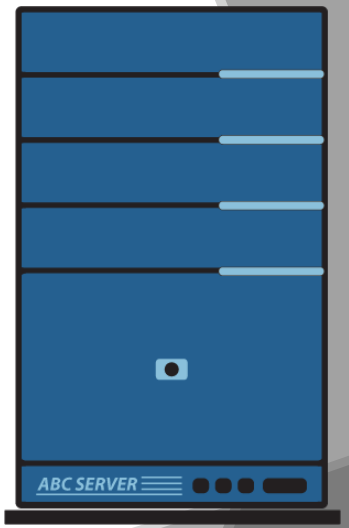
Increasing Proactive Disclosures:

3. Ensure that materials are posted in an “open” format and that the information is readily searchable
4. Agencies should constantly look to new ways to be transparent by looking at technology and social media and other available media sources to increase disclosures.

FOIA Best Practices

Increasing Use of Technology:

1. Virtually all army commands and activities receive requests electronically, either by e-mail or through electronic request forms. Commands or activities that do not should move towards a system that allows electronic submission of requests.
2. Constantly review technologies to assist with FOIA processing requirements.
3. Commands and activities should maximize their electronic recordkeeping capabilities to facilitate identification of the location of records responsive to requests



FOIA Best Practices

Increasing Use of Technology:

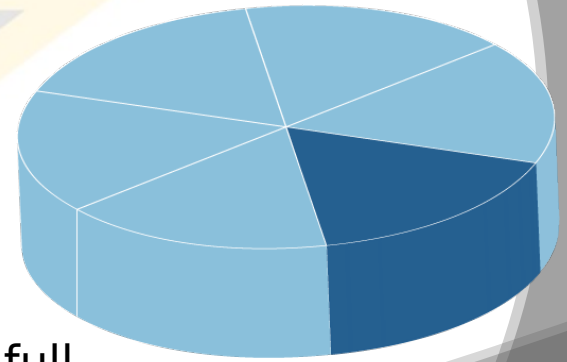
4. Agencies should maximize their electronic recordkeeping capacities to facilitate identification of the location of records responsive to requests
5. FOIA professionals should take snapshots of where their command stands throughout the year

Metrics

Six key metrics are available to FOIA managers in the Freedom of Information Case Tracking System (FACTS). Managers must ensure that all data is properly entered and updated in FACTS for accurate reporting.

These metrics are the number of requests:

1. Received
2. Processed
3. In the agency's backlog
4. Resulting in a release in full
5. Resulting in a release in part, and
6. Where all requested record were withheld in full



Reducing Backlogs and Improving Timeliness

The Office of Management and Budget (OMB) has released a mandate for agencies to reduce their Backlog by 10% each year:

1. Agencies need to take additional steps to reduce the backlog
2. Agencies should establish a goal of closing its ten oldest requests each year
3. OGCs should establish a goal of closing its ten oldest administrative appeals each year

Reducing Backlogs and Improving Timeliness

The Office of Management and Budget (OMB) has released a mandate for agencies to reduce their Backlog by 10% each year:

4. Command FOIA officials should work closely with their Record Managers and other command personnel to address challenges that are causing backlogs
5. Should ensure that sufficient resources are being devoted to FOIA and that sufficient FOIA training is available.
6. Commands should set goals and monitor progress throughout the year so they can achieve meaningful backlog reduction

Reports

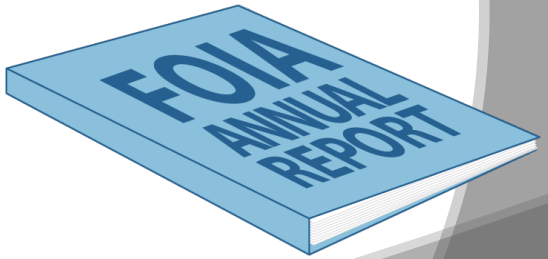
The OPEN Government Act of 2007 amended subsection (e) of the FOIA, adding new reporting requirements to the Annual Report

- Significantly, the Report must provide information for principal components and for the agency overall
- In 2008, DOJ issued guidance addressing the new reporting requirements required under the OPEN Government Act, defined the types of requests to include in the Report, added new reporting requirements on backlogs, and clarified the previously existing requirements

Reports

FOIA requires that an annual report must be submitted that covers the preceding fiscal year.

All Army components will be notified of the reporting requirements by the Army FOIA Office.



FOIA Public Liaison

General Responsibilities

- Each command must establish a command/activity public liaison
- Assisting in reducing delays
- Increasing transparency and understanding of the status of requests
- Assisting in the resolution of disputes
- To aid the requester when unusual circumstances exist in the resolution of any disputes between the requester and the command

FOIA Public Liaison

Army Public Liaison:

- Interacts with DoD, Office of Government Information Services (OGIS), and FOIA requesters to coordinate with the army activities to resolve disputes

Command/Activities Public Liaisons:

- Provides oversight of Command FOIA Office (often referred to as Requester Service Center) personnel to whom requesters can raise concerns about the services received from the Service Center

FOIA Public Liaison - Concerns

Common concerns raised by FOIA requesters

- Poor communication with requesters
- Difficulty obtaining status information of requests
- Inability to ascertain what records have already been processed under the FOIA
- Delays in having requests processed

FOIA Public Liaison

The FOIA Public Liaison can typically assist with these concerns by:

1. Advising requester of time required for various search methods and collaborate on best approaches
2. Collaborating with requester to determine search terms for electronic searches
3. Informing requester of potential search fees
4. If consultations are required, informing requester of time involved in this process
5. Utilizing technology to develop methods to speed up the process

FOIA Public Liaison

The FOIA Public Liaison can typically assist with these concerns by:

6. Establishing agreements with other commands and agencies, when possible, to streamline consultation process
7. Providing interim responses to requesters as consultations are completed and disclosure determinations are made
8. Review administrative processing policies and procedures
9. Offer services to resolve disputes between FOIA requesters, command headquarters, and subordinate activities as non-exclusive alternatives to litigation

References

- FOIA Training Materials
- Overview of the Freedom of Information Act – Procedures
- OIP Guidance and Suggested Best Practices for Improving Transparency
- FOIA Public Liaisons Training